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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 10 UNITED STATES OF AMERICA,) No. CR-12-00086 YGR
14 Plaintiff,)
15 v.) STIPULATION AND ORDER TO SET
16 DAMON FISH,) BRIEFING SCHEDULE, MOTION
Defendant.) HEARING DATE AND TO EXCLUDE
) TIME UNDER THE SPEEDY TRIAL ACT

Date: July 12, 2012
Time: 2:00 p.m.

17 The above-captioned matter is set on July 12, 2012 before this Court for motion setting or
18 change of plea. Defendant is charged with a violation of 18 U.S.C. § 922(g) (felon in possession
19 of a firearm). He has pleaded not guilty to the Indictment. After reviewing audio discovery
20 produced to the defense after the last status hearing date in June, Mr. Fish has decided to file a
21 motion to suppress the evidence in this case. For this reason, the parties jointly request that the
22 Court set the requested briefing schedule below and continue the matter to September 13, 2012,
23 at 2:00 p.m., before this Honorable Court for a hearing on the motion. The parties further
24 request that the Court exclude time under the Speedy Trial Act, 18 U.S.C. § 3161, between July
25 12, 2012 and September 13, 2012, for effective defense preparation and for the Court's
26 consideration of the defense motion that will be filed in this case.

Stip. Req. To Set Briefing Schedule and to
Exclude Time, No. CR-12-00086 YGR

1 The defense is awaiting an expert service's preparation of transcripts of several of the
2 relevant audio files that were produced to the defense last month, and for this reason the defense
3 requests two weeks to file the opening motion. In short, the parties are in agreement to the
4 following briefing schedule which will provide the defense with two weeks to file an opening
5 motion, three weeks for a government response and two weeks for a defense reply:

6 July 26, 2012 – defense opening motion

7 August 16, 2012 – government opposition

8 August 30, 2012 – defense reply

9 The parties further request that the Court set this matter for a hearing on the defense
10 motion for September 13, 2012, at which time the Court may decide if an evidentiary hearing is
11 necessary in this case. The parties further stipulate and agree that the ends of justice served by
12 this continuance outweigh the best interest of the public and the defendant in a speedy trial. The
13 parties further agree that the failure to grant this continuance would unreasonably deny counsel
14 for defendant the reasonable time necessary for effective preparation, taking into account the
15 exercise of due diligence. Finally, the parties agree that time may be excluded based on the
16 Court's consideration of the motion that the defense plans to file on July 26, 2012 until the
17 conclusion of the hearing on, or other prompt disposition of, such motion. Accordingly, the
18 parties agree that the period of time from July 12, 2012 until September 13, 2012 should be
19 excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A)
20 and (B)(iv), for effective preparation of defense counsel, taking into account the exercise of due
21 diligence, and that the period of time until September 13, 2012 should be excluded pursuant to
22 § 3161(h)(1)(D) once the defense motion is filed.

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1 DATED: July 10, 2012

/S/
ANDREW HUANG
Assistant United States Attorney

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4 DATED: July 10, 2012

/S/
ANGELA M. HANSEN
Assistant Federal Public Defender

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ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby
FINDS:

1. Given that the defense plans to file a motion to suppress and needs additional time to have transcripts of relevant audio recordings prepared before filing that motion;

2. Given that the parties have agreed on a reasonable briefing schedule and the defense will file an opening motion by July 26, 2012;

3. Given that the defense preparation of the motion is necessary for the defense preparation of the case and that the failure to grant the requested continuance would unreasonably deny counsel for defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence; and

4. Given that the ends of justice served by this continuance outweigh the best interest of the public and defendant in a speedy trial.

Based on these findings, IT IS HEREBY ORDERED that the motion setting or change of plea hearing date of July 12, 2012, scheduled at 2:00 p.m., is vacated and this matter is reset to September 13, 2012, at 2:00 p.m., for hearing on a defense motion to suppress. The defense opening motion is due on July 26, 2012; the government's opposition is due on August 16, 2012 and the defense reply brief is due on August 30, 2012. It is FURTHER ORDERED that time is excluded pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv), from July 12, 2012 until September 13, 2012. Time is excluded also pursuant to § 3161(h)(1)(D) once the defense motion is filed on July 26, 2012 until the conclusion of the hearing on, or other prompt disposition of, such motion.

DATED: July 12, 2012

Yvonne Gonzalez Rogers
YVONNE GONZALEZ ROGERS
United States District Judge